IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION Nos.21552, 21697 & 23605 of 2003

WRIT PETITION No: 21552 of 2003

Between:

P.Janaki W/O Rajeshwara Rao
Government Upper Primary School Shahgunj, Hyderabad.

..... PETITIONER

AND

1 State of Andhra Pradesh, Rep., by its Principal Secretary to Government GAD, Secretariat Buildings, Hyderabad.
2 State of Andhra Pradesh, rep. by Principal Secretary to

Government, Education Department, Secretariat

Buildings, Hyderabad.
3 Commissioner and Director of School Education Government of A.P. Hyderabad
4 District Educational Officer Hyderabad
5 The Head Master Government Upper Primary School
Shahgunj Hyderabad

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying to grant appropriate relief and issue a writ of Mandamus or otherwise declaring Para 5 of the A.P. Public Employment (Organization of Local cadres and Regulation of Direct Recruitment Act, 1975 as arbitrary, illegal, unconstitutional violating Articles 14, 21 of the Constitution of India and set aside the same in so far as it relates to treating the district of the state as a unit for the purpose of transfer of School Asst. and Secondary Grade Teachers are concerned and also set aside the judgment of

Tribunal in O.A.3915/2003 & batch, dt.23.9.2003 and issue consequential directions declaring the transfer of the petitioner from Khammam District to the Hyderabad District, issued in G.O.Rt.No.747, Edn. Department, dt.22.12.2001 as regular and permanent inter District transfer under para 5(2)(c) of the Presidential order, or alternatively direct the respondents to consider the case of the petitioner for regular transfer from Khammam District to Hyderabad District under para 5(2) (C) if the Presidential order and also direct the respondents to continue the petitioner as school Asst., Govt. Upper Primary School, Shajgunj, Hyderabad, and pass such other order or orders as it deems fit and proper..

Counsel for the Petitioner: MR.P.V.KRISHNAIAH

Counsel for the Respondents: GP FOR SERVICES I

WRIT PETITION NO : 21697 of 2003

Between:

P.V. Subbalakshmi W/o Sankar Prasad
Vijayawada Colony, Hyderabad.

..... PETITIONER

AND

1 State of Andhra Pradesh, Rep. by its Principal Secretary to Government GAD, Secretariat Buildings, Hyderabad.
2 State of Andhra Pradesh, Rep. by its Principal Secretary to Government, Education Department,
Secretariat Buildings, Hyderabad.
3 The Commissioner & Director of School Education, Government of A.P., Hyderabad.
4 The District Education Officer, Hyderabad.
5 The Head Master, Government High School
Vijayanagar Colony, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ order or direction in the nature of Mandamus or otherwise declaring the action of the respondents in declaring para 5 of the A.P. Public Employment (Organization of Local cadres and Regulation of Direct Recruitment) Act, 1975 as arbitrary, illegal and unconstitutional, violating Articles 14 and 21 of the Constitution of India and set aside the same in so far as it relates to treating the district of the state as a unit for the purpose of transfer of school Assistants and Secondary Grade Teachers are concerned and also set aside the judgment of Hon'ble Tribunal in O.A.No. 3918 of 2003 & batch dt. 23.9.03 and issue consequential directions, declaring the transfer of the petitioner from East Godavari District to Hyderabad

District, issued in G.O.Rt.No. 956 Education Department, dt. 1-8-98 and G.O.Rt.no. 173 Education Department dt. 29-7-99 and G.O.Rt.No. 535 Education Department dt. 3-9-2001 as regular and permanent inter-district transfer under para 5[2][c] of the Presidential Order, or alternatively direct the respondents to consider the case of the petitioner for regular transfer from East Godavari District to Hyderabad District under para 5[2][c] of the Presidential Order and also direct the respondents to continue the petitioner as Secondary Grade Teacher, Govt. High School, Vijayanagar Colony, Hyderabad.

Counsel for the Petitioner: MR.P.V.KRISHNAIAH

Counsel for the Respondents: GP FOR SERVICES-I

WRIT PETITION NO : 23605 of 2003

Between:

Sujanamma W/o Sunderarao
Amberpet, Hyderabad

..... PETITIONER

AND

1 State of Andhra Pradesh, rep. by its Principal Secretary to Government GAD, Secretariat Building, Hyderabad
2 State of Andhra Pradesh, rep. by its Principal Secretary to Government, Education Department, Secretariat, Building, Hyderabad
3 The Commissioner & Director of School Education, Government of A.P., Hyderabad
4 The District Educational Officer, Hyderabad
5 The Head Master, Government Boys High School, Amberpet, Hyderabad.

(Cause title amended as per Court order, dt.15.4.2004 in

W.P.M.P.7138/04).

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to grant appropriate relief and issue a writ, order or direction in the nature of Mandamus or otherwise declaring para 5 of the A.P. Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Act, 1975 as arbitrary, illegal and unconstitutional, violating article 14 and 21 of the Constitution of India and set aside the same in so far as it relates to treating the district of the State as a unit for the purpose of transfer of School assistants and Secondary Grade Teachers are concerned, and also set aside the judgment of the Hon'ble Tribunal in OA No. 3288 and batch dated 23-9-2003 and issue consequential directions, declaring the

transfer of the petitioner from Krishna District to Hyderabad District, issued in GO Rt.No. 487, Education Department, dt 15-9-2000, as regular and permanent inter district transfer under para 5 (2) (c) of the Presidential Order, or alternatively direct the respondents to consider the case of the petitioner for regular transfer from Krishna District to Hyderabad District under para 5 (2) (c) of the Presidential Order and also direct the respondents to continue the petitioner as Secondary Grade Teacher, Government Upper Primary School, Amberpet, Hyderabad,

Counsel for the Petitioner: MR.K.S.MURTHY

Counsel for the Respondents: GP FOR SERVICES-I

The Court made the following:

ORAL COMMON ORDER:- (PER GB,J.)

All the Writ Petitions can be disposed of by a common order as they arise out of a common order, dated 23.09.2003, passed by the Andhra Pradesh Administrative Tribunal, Hyderabad, in O.A.Nos.3915, 3918, 3288 and 2420 of 2003 with M.A.Nos.2295 and 1757 of 2003.

2. The matter relates to deputation of the petitioners from their respective parent schools to the schools situated at Hyderabad. The petitioners were working as Secondary Grade Teachers in Krishna and Khammam Districts. They made applications to the Government to sanction deputation on the ground that their spouses are stationed at Hyderabad. However, after considering the request of the petitioners in W.P.Nos. 23605 and 21552 of 2003, the Government issued G.O.Ms.Nos.487 and 747, dated 25.09.2000 and 22.12.2001 respectively, transferring them on deputation to Hyderabad for a period of three years, and the petitioner in W.P.No.21697 of 2003 was transferred on deputation to Hyderabad initially for a period of one year vide G.O.Ms.No.956, dated 01.08.1998 and subsequently, the period of deputation was extended for two more years vide G.O.Rt.No.173, dated 29.07.1999 and for two years vide G.O.Rt.No.532, dated

03.09.2001. However, even before expiry of the above said periods, the Government has taken a decision to cancel their deputation by issuing G.O.Rt.No.99, Education Department, dated 17.02.2003. Aggrieved by the said order, O.As. were filed.

3. At the time of filing the O.As., status quo orders were granted, and by virtue of the status quo orders, the petitioners were continued in the same place. Ultimately the O.As. were dismissed by an order, dated 23.09.2003, against which the present Writ Petitions have been filed.

4. Even at the time of admission of the Writ Petitions, this Court granted interim orders and by virtue of the said orders, the petitioners were continued in the same place. But, however, petitions have been filed by the Government to vacate the interim orders passed by this Court on the ground that the petitioners have no right to continue in the same place. In the meanwhile, the extended period of deputation also expired. In view of the situation, nothing survives in the Writ Petitions and the same are liable to be dismissed.

5. However, the learned counsel for the petitioners submits that the new Government has taken a decision to consider the cases of the persons for transfer from one district to another on the ground that their spouses are working at that place, but we are not inclined to go into this aspect. We are only concerned with the deputation of the petitioners who were sent on deputation initially and extended as mentioned above. Both the said periods have expired and the petitioners do not have right to continue in their respective places on deputation basis. Under those circumstances, we do not find any ground to interfere with the order of the Tribunal.

6. Accordingly, the Writ Petitions are dismissed. No costs.

7. However, since the petitioners are at the fag end of the academic year, we direct the Government to continue the petitioners up to 30th April, 2005 in their respective places and thereafter, appropriate posting shall be given to them.

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G. BIKSHAPATHY, J.

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P.S. NARAYANA, J.

Date: 04.02.2005

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To

1. The Principal Secretary to Government, GAD, Secretariat Building, Hyderabad.

2. The Principal Secretary to Government, State of Andhra Pradesh, Education Department, Secretariat Building, Hyderabad.

3. The Commissioner & Director of School Education, Government of A.P., Hyderabad.

4. The District Educational Officer, Hyderabad.

5. The Head Master, Government Upper Primary School, Shahgunj, Hyderabad.

6. The Head Master, Government Boys High School, Amberpet, Hyderabad.

7. The Head Master, Government High School, Vijaynagar Colony, Hyderabad.

8. The Registrar, A.P. Administrative Tribunal, Hyderabad.

9. 2 CCs to the G.P. for Services-I, High Court of A.P., Hyderabad (OUT).

10. 2 CD copies.